



CITY OF HAYWARD

AGENDA REPORT

Planning Commission

Meeting Date 03/09/00

Agenda Item 1

TO: Planning Commission

FROM: Philip W. Block, Associate Planner

SUBJECT: Use Permit UP 00-160-04 – Alex Bailey Representing the Institute of Divine Metaphysical Research (Applicant), Loube, et. al. (Owner) – Request to Conduct Bible Classes in the Vermont Plaza Shopping Center at 22636 Vermont Street in a Neighborhood Commercial (CN) Zoning District

RECOMMENDATION:

It is recommended that the Planning Commission find that the project is exempt from environmental review and that it be denied based on the attached findings.

BACKGROUND:

Setting

The Vermont Plaza Shopping Center includes approximately 2 acres at the southwest corner of B Street and Vermont Street. The center is generally surrounded by single and multiple family residences.

Proposal

The Institute of Divine Metaphysical Research (IDMR), a non-profit religious and scientific organization, proposes to conduct Bible classes within an 1,800 square foot lease area in the Vermont Plaza Shopping Center. The classes would take place in the evening and on Sundays. Approximately 50 to 60 people would attend the Sunday classes and 10 to 20 people the evening sessions. See Attachment B for a detailed class schedule. The IDMR prospective lease agreement is for 3 years with 2 one-year options.

Although Vermont Plaza exhibits deferred maintenance and is in need of fresh paint and renovated landscaping, no exterior changes are proposed to the building or grounds. The applicant would upgrade the interior by adding a second restroom, replacing bathroom fixtures and removing a storage partition.

Vermont Plaza Shopping Center

The Vermont Plaza Shopping Center is a small neighborhood retail center, which has served the upper B Street area for a number of years. Vermont Plaza currently has the following businesses: thrift store, New York Pizza, laundromat, nail parlor, Chinese restaurant, business center, bar, and liquor store. Presently there are two empty store fronts. A labor employment office previously occupied one, and the space the applicant would like to lease was formerly a video rental store. The Planning staff believes that the City should continue to encourage retail and complementary service uses in this neighborhood center consistent with the purpose of the Neighborhood Commercial zoning. Because of its location, the Vermont Plaza Shopping Center could become the major focal point of the neighborhood. There is a sufficient customer base, approximately (2900 dwelling units with a population of 7,700) and through traffic on B Street to support a retail center.

The applicant believes that the proposed Bible classes would not cause traffic, parking or other problems for the neighborhood or other Vermont Plaza Shopping Center businesses. They also indicate that the shopping center owner has difficulty finding space in the shopping center for the type of retail and service type uses traditionally found in a viable neighborhood shopping center. Nevertheless, staff believes that uses within a neighborhood should be supportive of neighborhood needs and which are complementary to surrounding businesses.

Consistency with adopted Plans and Policies

The Upper B Street Neighborhood Plan advocates making Vermont Plaza once again a vital, integral part of the neighborhood. The City Council Shopping Center Committee met at the center a few years ago to discuss improvements in conjunction with another potential tenant (a large church); however, the property owner has never implemented them and the church did not locate there.

The City of Hayward's General Policies Plan stresses the importance of protecting and developing suitable locations for business uses. Allowing low intensity or non-commercial uses in commercial areas can limit economic potential well into the future. "Retail areas, especially, require coordination of adjoining uses to provide complementary goods and services and attractive joint appearance."

Environmental Review

The proposal is defined as a project under parameters set forth in the California Environmental Quality Act (CEQA); however, it qualifies for a Categorical Exemption under Section 15301. Class 1 Existing Facilities.

Public Notice

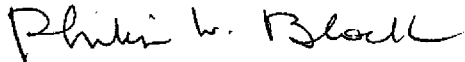
A notice of Public Hearing was mailed to every property owner, business and resident within 300 feet of the property as noted on the latest assessor's records, and to former members of the Upper B Street Neighborhood Task Force and appropriate public agencies.

Conclusion

In staff's opinion, the best uses for the two vacant spaces in Vermont Plaza Shopping Center are those listed as Primary Uses in the CN (Neighborhood Commercial) Zone. These traditional neighborhood shopping center uses include retail commercial, service commercial, personal services, and administrative and professional offices. Further, the purpose of the Neighborhood Commercial District is to provide products and services purchased frequently for the convenience of the neighborhood. Therefore staff recommends that the proposal for Bible Classes at Vermont Plaza be denied.

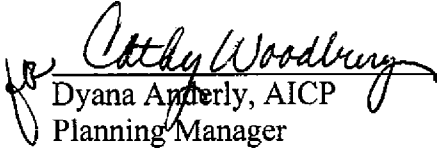
If the Planning Commission is supportive of the application, staff recommends that conditions of approval be prepared to address the change in occupancy and the term of the use permit and be presented for the Commission's approval.

Prepared by:



Philip W. Block, AICP
Associate Planner

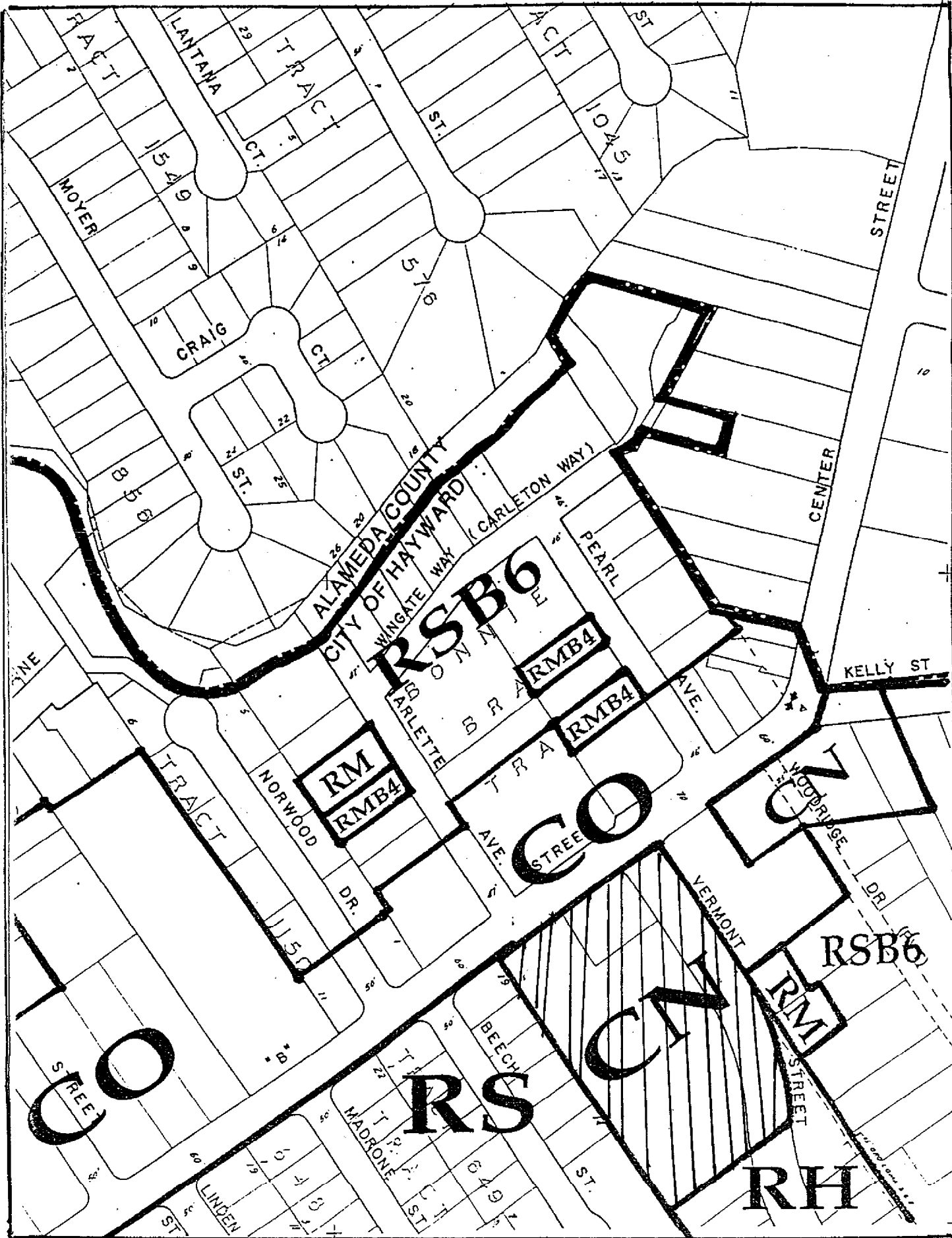
Recommended by:


Dyana Anderly, AICP
Planning Manager

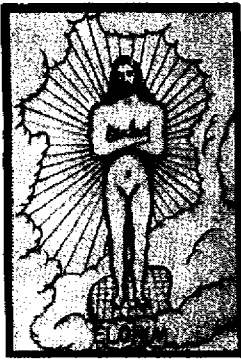
Attachments:

- A. Area Map
- B. Applicant's Background Information
- C. Applicant's Justification
- D. Findings for Denial

Shopping Center Site Plan
Proposed Lease Space Floor Plan



ATTACHMENT A



Institute of Divine Metaphysical Research

A NON-PROFIT RELIGIOUS AND SCIENTIFIC RESEARCH ORGANIZATION
POST OFFICE BOX 3836 • HAYWARD, CALIFORNIA 94544

PROPOSED PROPERTY USAGE

This document describes the intended use of the property at 22636 Vermont St. (Vermont Plaza) in the city of Hayward. The space constitutes 6% of the total space in the plaza. It will be used to conduct bible study meetings. The room will be equipped and setup theater style with chairs, head-tables, charts and chalk board to facilitate conducting lectures. Below is a class schedule listing times and number in attendance at those times.

1. CLASS SCHEDULE

- 12 - classes per month (50 – 60 in attendance)
 - ◆ Tuesday and Thursday 7:30 p.m. – 9:30 p.m.
 - ◆ Sunday 10:00 a.m. – 12:00 p.m.
- 4 - auxiliary classes per monthly (10 – 20 in attendance)
 - ◆ Sunday 6:30 p.m. – 8:30 p.m.
 - ◆ Friday 2 per month 7:00 p.m. – 8:00 p.m.
- 4 - choir rehearsals per month (10 – 15 in attendance)
 - ◆ Monday – 7:00 p.m. – 9:00 p.m.

2. EXISTING STRUCTURE

The structure has two exits – front and rear. Total square footage of the space is 1800 sq. ft. A restroom, closet space and storage partition (lower than the ceiling) are included in the floor space dimension. Before occupying the space the storage partition will be removed and existing restroom fixtures will be replaced.

3. PARKING

Total parking spaces for this property are 105. IDMR proposes to use 18 parking spaces.
1 parking space per 100 square feet - $(1800/100 = 18)$.

4. EXISTING OUTSIDE SIGN

There is a sign posted atop the building - left by the previous tenant. It is likely that we will make use of the sign as follows:

IDMR Hayward Branch

Alex Bailey
Superintendent

ATTACHMENT B

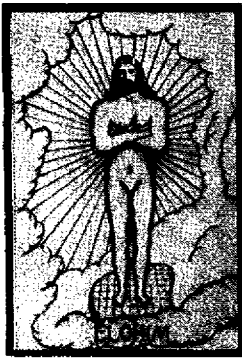
The following table lists the operating hours of all the tenants on the Vermont Plaza property – located at Vermont and B Streets in Hayward, Ca.

The shaded column represents the portion that IDMR is proposing to lease - pending City approval of a Use Permit.

IDMR morning hours are on Sundays (also noted) when most of the tenants are closed.

We plan to occupy this space in **two-hour increments 20 times per month** – closed on Wednesday and Saturday.

Hours of Operation	Vermont Plaza Tenants									
	Thrift Store	Empty	Pizza Parlor	IDMR	Laundromat	Chinese Restaurant	Nail Salon	Business Center	Bar	Liquor Store
Mon.	9 am – 7 pm		11 am – 10 pm	7 pm – 9 pm	8 am – 8 pm	11 am – 9 pm	10 am – 7 pm	Closed	10 am – 2 am	8 am – 10 pm
Tues	9 am – 7 pm		11 am – 10 pm	7:30 pm - 9:30 pm	8 am – 8 pm	11 am – 9 pm	10 am – 7 pm	Closed	10 am – 2am	8 am – 10 pm
Wed.	9 am – 7 pm		11 am – 10 pm	Closed	8 am – 8 pm	11 am – 9 pm	10 am – 7 pm	Closed	10 am – 2 am	8 am – 10 pm
Thurs.	9 am – 7 pm		11 am – 10 pm	7:30 pm - 9:30 pm	8 am – 8 pm	11 am – 9 pm	10 am – 7 pm	Closed	10 am – 2am	8 am – 10 pm
Fri.	9 am – 8 pm		11 am – 11 pm	7 pm – 8 pm (bimonthly)	8 am – 8 pm	11 am – 9 pm	10 am – 7 pm	Closed	10 am – 2 am	8 am – 11 pm
Sat.	9 am – 8 pm		11 am – 11 pm	Closed	8 am – 8 pm	11 am – 9 pm	10 am – 7 pm	Closed	10 am – 2am	8 am – 11 pm
Sun. AM	Closed		Closed	10:00 am - 12:00 pm	8 am – 8 pm	Closed	Closed	Closed	11 am – 10 pm	8 am – 9 pm
Sun. PM	Closed		Closed	6:30 pm - 8:30 pm (bimonthly)	8am – 8 pm	Closed	Closed	Closed	11 am – 10 pm	8 am – 9 pm



***Institute of Divine
Metaphysical Research***

RECEIVED

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PLANNING DIVISION

A NON-PROFIT RELIGIOUS AND SCIENTIFIC RESEARCH ORGANIZATION
POST OFFICE BOX 3836 • HAYWARD, CALIFORNIA 94544

January 27, 2000

Phil Block, AICP
Department of Community Economic Development
777 B Street
Hayward, CA 94541-5007

Dear Mr. Block:

The attachments to this letter are in fulfillment of our conversation on Tuesday, January 25 regarding our application for an Administrative Use Permit with the City of Hayward. It recounts the events as they occurred from our (the applicant's) point of view. Please include these details about the property and our organization with our application in your presentation to the Planning Commission.

I will wait to hear from you for a date and time when our application will be reviewed. I intend to be present at the meeting and I am hopeful that the realtor will be there with me.

Sincerely,

Alex Bailey
President, IDMR Hayward Branch

Attachments

ATTACHMENT C

On January 24, 2000, the City of Hayward determined that our perspective space for lease in Vermont Plaza should remain for commercial use to preserve the opportunity for retail and service businesses. The planner (Phil Block) likes the neighborhood and thinks that the current uses of the properties therein are appropriate for the area. He sees the area as desirable by current and perspective tenants and businesses.

Some assumptions have been made about increased traffic on B Street and some inquiries have been made wanting to know who we are.

Our observations and history of Vermont Plaza:

1. Russell's grocery store left the property vacant for more than 2 years. The current tenant is a Thrift store that draws very few or no people
2. The Video store has been vacant for at least 2 years. When we tried to estimate cost of heating PG&E informed us that they don't even have a record for the last tenant. BSR Realty confirms that rent was last received for this space in April 1997.
3. The Labor Ready space (which is actually 2 spaces) is now vacant and part of that is boarded up and an eye sore. Current tenants say that this establishment attracted people who tended to loiter on the premises and leave debris behind.
4. The Business Center is furnished but is never open for business.
5. On many Sunday mornings there is debris strewn over the parking lot and in front of the vacant Video Store.

Preserving Vermont Plaza for perspective businesses could be better substantiated if businesses were lined up to lease these spaces. We have no indication, either through talking with the realtor, inquiring with PG&E or our own observations (from living in community) that this is the case. Instead there are 4 vacated spaces in a property that is declining because it has not attracted businesses that would invest in further development. The video space represents 6% of the total space in the property. The pattern of business types and their lack of longevity that we have witnessed are evidence that businesses are not attracted to Vermont Plaza.

Since 1984 this area of Hayward has been on a decline. Vermont Plaza is not as viable as it was 10 years ago. In fact, a concern with the current tenants is that transients too often are there. There was once a Taco Bell at this location – now Taco Bell is on Jackson Street at Amador. With the refurbishing of Castro Valley Blvd. and Downtown Hayward, neighborhood traffic is going past the Plaza. In addition, the retailers that would locate businesses in Vermont Plaza would first have to invest in upgrades, compete with like (and probably larger) businesses or be so unique that customers would have no alternative.

Our own testimony is that we have lived in the neighborhood—John on Kelly Hill for 20 years and me on the west side (near Southland Mall) for 16 years. We know where the active areas in Hayward have been over the years. We know the Video Store in the Vermont Plaza could not compete with Blockbuster, Hollywood and Ultimate Video. The liquor store and bar in Vermont Plaza are competing with a liquor store and bar just a few yards up the street. The Chinese Restaurant is competing with Val's, a hamburger joint, which has enjoyed success for my 16-year stay in Hayward. If activity is a proper measure of success, it is apparent that Val's is thriving – unlike most of the businesses in Vermont Plaza.

Let's suppose that Vermont Plaza were filled with retailers and service businesses. That would likely cause more of a traffic problem on B Street than our organization. Our hours of operation

are after the operating hours of most the business tenants. Traffic on Sunday would also not present a problem. We have provided a schedule of our intended use of the property with the permit application.

Our case for locating our bible class in Vermont Plaza :

- ◆ We are one of 6 branches holding classes in the Bay Area
- ◆ We have been holding classes in Hayward for over 12 years and have had no incidents of disturbing the peace or worse. Our classes are orderly and peaceful.
- ◆ Class size is about 50 – 60 people who meet formally 3 times a week for 2 hours.
- ◆ Our members are conservatively dressed in business attire and do not tend to linger in the parking lot.
- ◆ Some of our members come to Class from work so they would likely patronize the nearby eating establishments or liquor store for snacks and soft drinks.
- ◆ Our perspective lease agreement is for 3 years with 2 one-year options. We are also planning to make improvements to the property as part of our agreement. Even though our proposed improvements are a direct result of our occupancy, they are upgrades that would not otherwise be made. Since most development projects require startup time longer than our lease term, it is not likely that we will impede future development of the property and we probably could not afford to be there after development.
- ◆ Until the business community awakens, our occupancy of this space may be the most expeditious way to curtail the current vacancy rate and generate revenue for the current businesses.
- ◆ It is in the interest of the landlord and businesses in Vermont Plaza to have this space occupied to share maintenance and property expenses. We traditionally cleanup early before our class convenes – which immediately mitigates a current problem (item 5 above)

We are confident that our presence in this community would be an asset and a stabilizing force. Furthermore, there is no impetus for the landlord to refurbish this property when no rents are being collected on so many vacant spaces.

We submit this matter, with this additional information, for your consideration in hope of a favorable decision – so that all concerned may be benefited.

INSTITUTE OF DIVINE METAPHYSICAL RESEARCH BACKGROUND INFORMATION

The Institute of Divine Metaphysical research is a nonprofit, non-denominational religious and scientific research organization founded by Henry Clifford Kinley, who claimed to have had a Divine Vision and Divine Revelation direct from Yahweh-Elohim (the Lord-god) in Springfield, Ohio in 1931. In this vision, the Creator showed unto our Founder, Dr. Henry C. Kinley, his entire Purpose, Pattern, and Plan from start to finish.

After Dr. Kinley received this stupendous Divine Vision and Revelation, he immediately knew that the whole world was in error from the standpoint of its knowledge of the Creator. He endeavored for 45 years to reconcile mankind's blunders and errors by teaching and preaching the things he saw and heard in his vision using graphic charts and illustrations.

These charts and illustrations have been in colleges, universities, and viewed by the most highly academically trained, scientists and theologians in the world. They all attest and acclaim that this teaching is the unadulterated truth. No one has ever been able to refute it in part or in its entirety!

In this vision, Dr. Kinley also received the true and correct name of our Heavenly Father YAHWEH (Lord), His Divine Title, ELOHIM (God), and the name of the Holy Spirit in or out of a physical body, YAHSHUA (Jesus).

These true names and title were incorporated in our textbook written by our Founder Dr. Henry C. Kinley, in the Year 1961 entitled, *God (Elohim) The Archetype (Original) Pattern OF the Universe*, was sent to many ecclesiastical, scientific, and political leaders worldwide, including Pope John XXIII; Dr. Edwin T. Dahlberg, President of the National Council of Churches of Christ; Mrs. Willie G. Alstork, General Secretary of the African Methodist Episcopal Zion church; Rabbi Bernard J. Bunberger, President of the American Conference of Rabbis; Mr. Leonard T. Canney, President of the Church of Christ, scientist; the Rt. Rev. Marvin A. Franklin, Presiding Bishop of the Methodist Church in the USA; Rev. Dr. Norman Vincent Peale; Rev. Billy Graham; Mr. Emanuel Rachman, President of the Rabbinical Council of America; Mr. R. P. Riguhre, President of the General Conference of the Seventh Day Adventist Church; Gunnau Gundersen, M.D., President of the American Medical Association; President John F. Kennedy; Premier Nikita S. Khrushchev; Rt. Hon. Harold McMillan of England; Rt. Hon. John G. Diefenbaker of Canada; John Charles DeGaulle; Hon. Yitzhak Ben Zvi of Israel; Hon. Ganel A. Nasser; HM Queen Elizabeth II; HM King Frederik; HM King Gustav; HM King Olav V; HIM Emperor Hirohito; HIM Emperor Haile Selassie I; and many more throughout the world just to name a few. Dr. Kinley informed us that **this book would force the ecclesiastical powers of the world to return to the use of the true names.**

A Holy Name Bible was published in 1963 by A. B. Traina of the Scripture Research Organization in which the name Yahweh, the title Elohim and the name Yahshua are used.

In 1966 the Roman Catholic Church published the New Jerusalem Bible imprimatured by John Cardinal Heenan, in which the name YAHWEH and His title ELOHIM are used in the text throughout the Old Testament.

In the mid 1970's, a group sprang up calling themselves the Assemblies of Yahweh; and in 1981 they published a Bible entitled, *The Sacred Scriptures* in which the true names are used throughout their Bible.

Since 1961 to the present time, the name YAHWEH has been proclaimed, and many ministers and laymen as well as world leaders have come to recognize and use that name as predicted by our Founder, Dr. Henry Clifford Kinley.

In 1971, 1975 and 1976 this organization sponsored three worldwide ecclesiastical peace missions in obedience to our Savior, Yahshua the Messiah; "And this gospel of the kingdom shall be preached in all the world for a witness unto all nations; and then shall the end come." (Matt. 24:14) We presented this teaching to the leaders of the ecclesiastical, political and scientific world in the following countries which as stated earlier, they have not been able to refute:

London, England; Cairo, Egypt; Amman Jordan; Athens, Greece; Jerusalem, Israel; Rome, Italy; Paris, France; Tokyo, Japan; Hong Kong, BCC; New Delhi, India; Moscow, Russia; Sydney, Australia; Manila, Philippines; Addis ABABA, Ethiopia; Damascus, Syria; Istanbul, Turkey; Geneva, Switzerland; Copenhagen, Denmark; Dublin, Ireland; Brussels, Belgium; Bonn, Germany; Lisbon, Portugal; Madrid Spain; Lagos, Nigeria; Dakar, Senegal; and Rio De Janeiro, Brazil.

Our textbook was used as a guide at the merging of the World Council of churches and the International Missionary Council in New Delhi, India in November, 1961; and they stated, "We confess that we have walked in darkness rather than in light, that we have hidden from men the true light of the world because our works were evil." (Los Angeles Times, November 20, 1961)

Likewise, Pope John XXIII called for a General Council of the Roman Catholic Church; The Second Vatican Council convened in Rome on October 11, 1962. It was originally called for the purpose of "Opening up the doors of the church and letting some fresh air in" and to "bring the church up to date." When the Council concluded its work in December 1965, it had rescinded and torn down nearly every tenet and doctrine upon which the Roman Catholic Church stood for two thousand years. The textbook, which was sent to the Pope, cardinals and other leaders of the Roman Catholic Church, had vigorously declared that this church was wrong in each and all of its concepts and traditions. The church hierarchy had no alternative but to try to patch things up, overall, the textbook has brought to light the pervasive errors in the doctrine of the Roman Catholic Church and other churches and religious denominations.

When our Peace Mission delegates met with leaders of the Roman Catholic Church in Vatican City on October 16, 1971, Pontiff Joseph Cardinal Gremillion, Chairman of the Pontifical Commission for Justice and Peace, said (as one of our charts was being rolled down), "I see that you use the true name of the Heavenly Father, Yahweh."

A press copy of our textbook, now in it's eight edition, and entitled since 1969, *Elohim, the Archetype (original) Pattern of the Universe* was sent by certified mail to Pope Paul VI, in August, 1968; Pope John Paul I in September, 1978; and to Pope John Paul II in November, 1978.

Dr. Kinley admitted that the views expressed in this book were not his own, but those which he received by way of the Divine Vision and Revelation. In this book, he is merely telling the world

what Yahweh showed to him. Accordingly, he wants everyone to recognize that it is Yahweh-Elohim who is speaking through the pages of this book as he did in times past (Hebrews 1:1); therefore, Yahweh is the author and not Henry C. Kinley.

This book shows that Yahweh-Elohim Himself is the Archetype (original) Pattern of the Universe, and that by this Divine threefold pattern (or by Himself), he has made all things and purposed all things.

Therefore, everything in the universe, including man, is patterned after Elohim, or conforms to the threefold pattern of Elohim Himself, which Pattern is manifest in the entire universe for all mankind to know beyond a shadow of a doubt that there is a true and living Elohim.

Moreover, Yahweh has a definite purpose, which he is carrying out without hindrance, destruction, or error. The fact that Yahweh-Elohim is the Archetype Pattern and that He did give this Intangible Pattern of the Tabernacle to mankind (as explained in the textbook for the purpose mentioned above) is wholly and completely substantiated by the Bible itself.

A knowledge of this Yahweh Elohim-given Pattern weighs the accuracy and infallibility of the contents of the Bible (excusing interpolations and mistranslation) and leads one to a complete understanding of the Bible not heretofore received.

Since Yahweh Elohim has given such a profound witness of himself for the purpose of mankind's understanding of him as he really exists, it can be emphatically declared that no one anywhere can understand Yahweh and his purpose, or know anything about Yahweh without a knowledge of this threefold Divine Pattern. This Divine Pattern explains the origin and operation of every cosmic phase of the universe in all of its manifestations according to a definite and infallible principle of Spirit Law embodied in the pattern. It further explains the threefold make-up of the universe and everything in it, including man; and prophetically tells of things to come by a profound knowledge of its operation. A thorough search of libraries throughout the country has not disclosed that anyone has written or conveyed such an understanding by a Divine Vision and Revelation heretofore!

The Divine Vision and Revelation given to our founder is no different than the visions seen in Mt. Sinai by Moses, who wrote the first five books of the law, or the vision seen by the Apostle John on the Isle of Patmos, who wrote the book of Revelation (as stipulated in the Bible). **It is the misunderstanding by mankind of this Pattern that has caused all the divisions, denominations, cults, sects, etc.!**

On February 9, 1976, Dr. Henry C. Kinley passed away, but not before having raised up ministers who understand and can explain this Divine Vision and Revelation to the extent that 130 branch schools of the Institute are now in various states throughout the United States, Canada and various other countries.

Finally, we would like to impart that the Institute is not affiliated with any organization that uses the name YAHWEH, neither are we in agreement with the doctrines and tenets of any so-called religious organization throughout the world

Findings for Denial
Use Permit 00-160-04
Institute of Divine Metaphysical Research (Applicant)
Loube, et. al. (Owner)

1. The proposed project is defined as a project under parameters set forth in the California Environmental Quality Act (CEQA) Guidelines; however, it qualifies for a Categorical Exemption under Section 15301. Class 1 (c) Existing Facilities.
2. The proposed Bible Class use in the Vermont Plaza Shopping is not consistent with maintaining retail and service business that would provide goods and services to the Upper B Street Neighborhood for the public convenience and welfare.
3. The character and integrity of the CN (Neighborhood Commercial) Zone District would be impaired by permitting non-commercial uses in the Vermont Plaza Shopping Center and impeding it its progressing toward achieving its place as a strong viable neighborhood shopping center.
4. The public welfare would best be served by maintaining and enhancing the provision of convenience goods and services purchased frequently, which is the purpose of the Neighborhood Commercial zoning district. The proposed use is not consistent with the General Plan and Economic Development Element policy to create a sound local economy which attracts investment, increases the tax base, creates employment opportunities for residents and generates public revenues.